

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION

MICHAEL PRINCE, JR.

PLAINTIFF

v.

CASE NUMBER: 4:13cv165-SA-JMV

WASHINGTON COUNTY, MISSISSIPPI,  
SHERIFF MILTON GASTON, in his Official Capacity,  
LIEUTENANT MACK WHITE,  
in his Individual and Official Capacity,  
DEPUTY MARVIN MARSHALL,  
in his Individual and Official Capacity, and  
JOHN DOES 1-10

DEFENDANTS

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PLAINTIFF'S MOTION TO WITHDRAW ADMISSIONS

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**COMES NOW**, the Plaintiff, Michael Prince, Jr., by and through counsel, and files this, his *Plaintiff's Motion to Withdraw Admissions*, and in support thereof, would show the following, to-wit:

1. Defendants in the above-referenced matter filed a *Motion to Deem Requests for Admissions Admitted* on February 3, 2014, which came as a great surprise to the Plaintiff, as neither of his attorneys had received any discovery requests of any sort from the Defendants. *See affidavits of counsels and staff attached* as Exhibit A, Exhibit B, Exhibit C, and Exhibit D.

2. After speaking with counsel opposite the following day, February 4, 2014, a Word copy of the discovery requests were emailed to the Plaintiff on the morning of February 5, 2014.

3. Counsel for the Plaintiff scheduled a meeting with the Plaintiff, Michael Prince, Jr., as soon as possible, which was Thursday, February 6, 2014, as Mr. Prince

lives in Greenville and his attorneys are based in Jackson.

4. Plaintiff mailed sworn responses to *Requests for Admission* (attached as Exhibit E) to the Defendants that very day, and followed up with an electronic mail version of the responses the following morning, February 7, 2014.

5. All in all, the Plaintiff had completed the response process within 48 hours of actually receiving the electronic version of the Defendants' *Requests for Admission*.

6. Plaintiff would request that the admissions as admitted by operation of Rule 36 be allowed to be withdrawn, and for the sworn responses as mailed be allowed in their stead, pursuant to Fed. R. Civ. P. 36(b).

7. A presentation of the merits of the case would be greatly harmed were the Plaintiff required to proceed in this litigation under factual premises that are contrary to the actual facts of the evening in question.

8. Defendants would suffer no prejudice were the admissions as admitted permitted to be withdrawn, as Defendants have made no argument that they have in any way relied on the admissions as admitted in preparation for depositions or trial, and the discovery deadline is ninety days away.

**WHEREFORE, PREMISES CONSIDERED**, the Plaintiff prays that this Court will allow the Plaintiff to withdraw the admissions as admitted to be withdrawn and to instead substitute the sworn responses as mailed in their stead. Plaintiff further prays for any other general relief to which he may be entitled.

**RESPECTFULLY SUBMITTED**, this the 14th day of February 2014.

**MICHAEL PRINCE, JR.**

/s/ Derek L. Hall  
BY: DEREK L. HALL

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*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I, Derek L. Hall, do hereby certify that I have this day, electronically filed the foregoing document with the Clerk of the Court via the CM/ECF system and further, that I have sent a true and correct copy of the foregoing document via the CM/ECF system to the following:

P. Scott Phillips, Esq. – sphillips@campbelldelongllp.com  
Andrew Tominello, Esq. – dtominello@campbelldelongllp.com

**SO CERTIFIED** this the 14th day of February 2014.

/s/ Derek L. Hall  
DEREK L. HALL